

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

MICHAEL STEVEN KOBER

CIVIL ACTION NO. 09-1772

VERSUS

JUDGE STAGG

NATIONAL BOARD OF MEDICAL  
EXAMINERS

MAGISTRATE JUDGE HORNSBY

**DEFENDANT'S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(1), defendant National Board of Medical Examiners ("NBME") hereby moves to dismiss plaintiff's complaint. As set forth more fully in the supporting memorandum that is filed herewith, plaintiff's lawsuit is premature, and the Court therefore lacks subject matter jurisdiction.

NBME develops and administers the United States Medical Licensing Examination ("USMLE"). The USMLE is a standardized test that is used as part of the process for licensing physicians in Louisiana and in every other jurisdiction in the United States. The complaint asserts that NBME violated plaintiff's rights under the Americans with Disabilities Act ("ADA") by denying him testing accommodations on the USMLE exam. However, plaintiff is not currently registered to take the USMLE and has no accommodation request pending with the NBME. His claims are not ripe, and there is no case or controversy for the Court to resolve.

WHEREFORE, plaintiff's complaint against the NBME should be dismissed without prejudice, with leave to re-file if and when there is actually a decision by NBME on an accommodation request by plaintiff that can be subject to judicial review.

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ATTORNEYS FOR NATIONAL BOARD OF  
MEDICAL EXAMINERS

**CERTIFICATE**

I HEREBY CERTIFY that a copy of the above and foregoing was filed with the United States District Court for the Western District of Louisiana by electronic case filing/case management and that a copy of the same was either served on all counsel of record by electronic notification or by U.S. Mail, postage pre-paid.

Shreveport, Louisiana, this 13th day of November, 2009.

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s/John T. Kalmbach

OF COUNSEL